

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 33325 of 2006(P)

PETITIONER:

M/S.PANCHAMI PACK (KERALA) PVT LTD.,
GROUND FLOOR, TOUCH STONE MANOR, VANCHIYOOR,
THIRUVANANTHAPURAM,
REP. BY ITS DIRECTOR SHRI.KRISHNA KUMAR.

BY ADV. SRI.N.N.SUGUNAPALAN (SR)
SRI.D.SAJEEV

RESPONDENTS:

1. THE EXECUTIVE OFFICER,
TRAVANCORE DEVASWOM BOARD,
SABARIMALA, PATHANAMTHITTA DISTRICT.
2. THE TRAVANCORE DEVASWOM BOARD,
DEVASWOM BOARD OFFICE,
THIRUVANANTHAPURAM,
REP. BY ITS SECRETARY.

ADDL.3.M/s SREE GOKULAM CHIT & FINANCE COMPANY PVT LTD
REGISTERED AND CORPORATE OFFICE AT GOKULAM TOWER
KODAMBAKKAM, ARCOT ROAD, CHENNAI 600024 REPRESENTED
BY ITS MANAGING DIRECTOR SRI A.M. GOPALAN, S/o A.M.CHATHU
M/s SREE GOKULAM CHIT & FINANCE COMPANY PVT LTD,
GOKULAM TOWER, KODAMBAKKAM, ARCOT ROAD,
CHENNAI 600024

(ADDL. R3 IMPEADED AS PER ORDER DATED 19/01/2007
ON I.A. NO 794 OF 2007)

R1 & R2 BY ADV. SRI.U.K.RAMAKRISHNAN, SC, TDB
ADDL. R3 BY ADV. SRI.E.R.VENKATESWARAN
ADV. SRI.K.S.BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/01/2007, ALONG WITH W.P.C. NO 1538 OF 2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

W.P.C. Nos. 33325 of 2006 & 1538 of 2007

Dated: 19th January 2007.

JUDGMENT

Radhakrishnan, J.

Heard counsel on either side.

2. W.P.C. No 33325 of 2006 has been filed seeking a writ of certiorari to quash Ext. P4 communication dated 20.11.2006 informing the petitioner about appropriation of various amounts mentioned therein based on the agreement executed between the parties. Petitioner had filed Ext.P2 objection against the action of the Devaswom Board to retain the amount due to it. Ext.P2 was directed to be considered by this court vide judgment in W.P.C. No 34346 of 2005. Later the Board passed Ext.P7 order on 4.1.2007 upholding Ext.P4 communication dated 20.11.2006. Aggrieved by the same petitioner has approached this court.

3. Counsel for the petitioner submitted that though the petitioner had filed detailed objection vide Ext. P2 that was not adverted nor referred to

in Ext.P7 and there is total non application of mind by the Board while issuing the said order. Counsel submitted that the petitioner has already preferred Ext.P6 objection with regard to items 3 and 4 in Ext.P4 which is now pending consideration before the Board. We have perused Ext.P2 objection and also Ext.P7 order passed by the Board. In our view, counsel for the petitioner is right in his submission that the various objections raised by the petitioner were not even adverted to or considered by the Board while passing Ext.P7 order. In fact there is no reference to any of the objections raised in Ext. P2. Since there is non application of mind by the Board with regard to the various objections raised by the petitioner, we are inclined to set aside Ext.P7 order and direct the Board to reconsider Ext. P7 and pass appropriate orders on merits. Petitioner has also filed Ext.P6 objection with regard to items 3 and 4 in Ext. P4 which will also be considered by the Board. The writ petition is accordingly disposed of directing the Board to pass fresh orders after giving an opportunity of hearing to the petitioner within six weeks from today. We make it clear we are not expressing any opinion on the merits of the case.

4. Learned counsel appearing for the petitioner in W.P.C. No 1538 of 2007 submitted that the petitioner may be permitted to withdraw the writ petition. In view of our orders in W.P.C. No 33325 of 2006, permission is

granted and the writ petition is dismissed as withdrawn.

SD/-
(K.S. RADHAKRISHNAN, JUDGE)

SD/-
(M.N. KRISHNAN, JUDGE)

19/01/2007
en/

W.P.C. No 33325 of 2006

Order on I.A. No 599 of 2007

Dismissed.

Id./- K.S.Radhakrishnan, Judge

Id./- M.N.Krishnan, Judge

19/01/2007

APPENDIX

Petitioner's exhibits:

Ext.P1 - True copy of the agreement dated 19.4.1999 executed between the petitioner and the respondent firm.

Ext.P2 - True copy of the objection dated 29.11.2005 preferred by the petitioner before the Devaswom Board.

Ext.P3 - True copy of the judgment dated 9.12.2005 in W.P.(C) No 34346/2005 of this court.

Ext.P4 - True copy of the notice No ADT/283/06/SABA dated 20.11.2006 issued by the respondent Devaswom to the petitioner.

Ext.P5 - True copy of Notice No S.D.T No 1794/01/SABA dated 20.11.2006 issued by the respondent Devaswom Board to the petitioner.

Ext.P6 - True copy of the objection dated 22.11.2006 preferred by the petitioner before the Devaswom Board.

Ext.P7 - True copy of the order dated 4.1.2007 passed by the respondent Board with translation

Ext.P8 - True copy of the objection filed by the petitioner before respondents.

Respondent's exhibits:

Ext.R1(a) - True copy of the report of the Devaswom Commissioner dated 3.1.2007

Ext.R1(b)- True copy of the report of the Chief Engineer (General) dated 19.5.2006

Ext.R1(c) -True copy of the order of the Board dated 9.10.2006

Ext.R1(d) -True copy of report of Devaswom commissioner dt 10.10.2006

Ext.R1(e)-True copy of order of the Board dated 31.10.2006

[true copy]

W.P.C. Nos 33325 of 2006
and
1538 of 2007

JUDGMENT

19/01/2007